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1 UNITED STATES PATENT AND TRADEMARK OFFICE  
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4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
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8 *Ex parte* SCOTT FERGUSSON  
9  
10

11 Appeal 2009-001717  
12 Application 09/917,120  
13 Technology Center 3600  
14  
15

16 Decided: August 6, 2009  
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19  
20 Before HUBERT C. LORIN, ANTON W. FETTING, and  
21 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

22  
23 FETTING, *Administrative Patent Judge*.  
24  
25

26 DECISION ON APPEAL  
27

28 STATEMENT OF THE CASE

29 Scott Fergusson (Appellant) seeks review under 35 U.S.C. § 134  
30 (2002) of a final rejection of claims 1-4 and 6-50, the only claims pending in  
31 the application on appeal.

We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b)  
(2002).

## SUMMARY OF DECISION<sup>1</sup>

We AFFIRM-IN-PART.

## THE INVENTION

The Appellant invented a system and method for assisting financial services firms in developing and maintaining strong customer service and loyalty (Specification 3:1-4).

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added].

1. A system for displaying account information from two or more accounts that are stored in one or more account database, wherein each account includes one or more account items, the system comprising:

[1] a first data structure having two or more associated links, wherein each link identifies one or more of the accounts, and wherein the first data structure, along with the one or more associated links, are user definable;

[2] display means for simultaneously displaying selected account items from the accounts identified by the two or more links of the first data structure.

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<sup>1</sup> Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed December 4, 2006) and Reply Brief ("Reply Br.," filed May 17, 2007), and the Examiner's Answer ("Ans.," mailed March 21, 2007), and Final Rejection ("Final Rej.," mailed May 18, 2006).

THE REJECTIONS

The Examiner relies upon the following prior art:

Kenna	US 6,108,641	Aug. 22, 2000
Buist	US 6,408,282 B1	Jun. 18, 2002

The Examiner rejected claims 1-4 and 6-50 under 35 U.S.C. § 103(a) as unpatentable over Kenna and Buist.

ARGUMENTS

*Claims 1-4 and 6-50 rejected under 35 U.S.C. § 103(a) as unpatentable over Kenna and Buist*

The Examiner found that Kenna describes all of the limitations of claim 1, except for a display means for simultaneously displaying selected account items from the accounts identified by two or more links of the first data structure (Ans. 3). The Examiner found that Buist describes this feature (Ans. 3). The Examiner further found that a person with ordinary skill in the art would have recognized the benefit of facilitating a user's ability to review account information for all accounts by simultaneously displaying selected account items (Ans. 4). The Examiner found that it would have been obvious to combine Kenna and Buist (Ans. 4).

The Appellant contends that:

(1) Kenna and Buist fail to describe limitation [1] of claim 1, specifically because Kenna fails to describe a data structure and associated links that are user-definable and Buist also fails to describe

inks (accounts) that are user-definable, as per claims 1-4 and 8-9<sup>2</sup> (App. Br. 13 and Reply Br. 2-3).

(2) There is no motivation to combine Kenna and Buist (App. Br. 14-15).

(3) Buist fails to describe a system having first and second data structures, where the second data structure has one or more associated links, with one of the links identifying the first data structure, as per claim 6 (App. Br. 15).

(4) The Examiner has failed to address claims 7, 12-15, 20, 21, 23-33, 35, 43, 46, and 47 and therefore has failed to establish a prima facie case of obviousness for these claims (App. Br. 15-26).

(5) Buist fails to describe a combining means for combining related account items from more than one account before the display means displays the account items, as per claims 10-11 and 50 (App. Br. 15-16 and 26-27).

(6) Kenna and Buist fail to describe a system in which the user actually creates the data structure, as per claims 16-19 and 22 (App. Br. 17).

(7) The Examiner has failed to address the limitations of claims 34 and 36-41 and Kenna and Buist fail to describe outputting a formatted output formatted to print onto printed labels as per claims 34 and 48-49 (App. Br. 20-25). The Appellant further contends that the Examiner has failed to provide a motivation or suggestion to combine Kenna and Buist

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<sup>2</sup> The Appellant only listed claims 1-4 and 8 as argued together. Claim 9 is not referenced anywhere in the arguments. As such, claim 9 is assumed to be grouped with claims 1-4 and 8.

1 and there is no motivation or suggestion to combine Kenna and Buist as  
2 per claim 34 (App. Br. 21).

3 (8) Kenna and Buist fail to describe a display means for displaying  
4 on a single screen or window, or multiple screens or windows  
5 simultaneously, selected investment objectives and selected document  
6 customer contacts for a selected account as per claims 42-47 (App. Br.  
7 25-26).

### 8 9 ISSUES

10 The issues pertinent to this appeal are whether the Appellant has  
11 sustained his burden of showing that the Examiner erred in rejecting claims  
12 1-4 and 6-50 under 35 U.S.C. § 103(a) as unpatentable over Kenna and  
13 Buist.

14 The pertinent issue turns on whether Kenna and Buist describe a first  
15 and second data structure that are associated with each other by a link and  
16 whether the Examiner has failed to address certain claims and specific  
17 limitations of other claims.

### 18 19 FACTS PERTINENT TO THE ISSUES

20 The following enumerated Findings of Fact (FF) are believed to be  
21 supported by a preponderance of the evidence.

#### 22 *Facts Related to the Prior Art*

##### 23 *Kenna*

24 01. Kenna is directed to a method and apparatus for directing an  
25 account management system which incorporates master accounts

with a plurality of nested subaccounts having a specific subset of individual properties (Kenna 1:14-18).

02. The data processing system has a single master account and a plurality of subaccounts directed to a specific goal, such as monthly household expenses, long-term investment strategies, and a medical savings account (MSA) (Kenna 5:4-8). The database maintains a data structure that contains linking information, such as master and/or subaccount identification number, which associates subaccount information to master accounts (Kenna 5:25-33). The subaccounts are linked to the master account by the data processing system (Kenna 5:32-33). A user can open additional subaccounts after the master account has been activated (Kenna 5:65-67).

*Buist*

03. Buist is directed to a system and method for trading securities over the Internet (Buist 1:9-11).
04. A user is enabled to view the status of his account balances (Buist 26:35-36). When the user selects the “accounts” function, the user is presented with the entire list of account balances and related details of the account balances (Buist 26:39-42). The user is further enabled to select an individual account and the user is presented with additional details related to that account or the ability to print (Buist 26:44-55). For example, a user’s account can be a stock portfolio and each subaccount can be an individual stock (Buist 13:50-63 and fig. 8). The system will display the user’s entire stock portfolio and the user is enabled to select an

individual stock, or subaccount, to drill-down for further details of that stock (Buist 13:50-63 and figs. 8-9). Values from each stock are further aggregated to give total portfolio values (figs. 8-9).

*Facts Related To The Level Of Skill In The Art*

05. Neither the Examiner nor the Appellant has addressed the level of ordinary skill in the pertinent arts of finance system and customer relationship management systems. We will therefore consider the cited prior art as representative of the level of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (“[T]he absence of specific findings on the level of skill in the art does not give rise to reversible error ‘where the prior art itself reflects an appropriate level and a need for testimony is not shown’”) (quoting *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F.2d 158, 163 (Fed. Cir. 1985)).

*Facts Related To Secondary Considerations*

06. There is no evidence on record of secondary considerations of non-obviousness for our consideration.

PRINCIPLES OF LAW

*Obviousness*

A claimed invention is unpatentable if the differences between it and the prior art are “such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.” 35 U.S.C. § 103(a) (2000); *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 13-14 (1966).



In *Graham*, the Court held that the obviousness analysis is bottomed on several basic factual inquiries: “[1] the scope and content of the prior art are to be determined; [2] differences between the prior art and the claims at issue are to be ascertained; and [3] the level of ordinary skill in the pertinent art resolved.” 383 U.S. at 17. See also *KSR*, 550 U.S. at 406. “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

## ANALYSIS

*Claims 1-4 and 6-50 rejected under 35 U.S.C. § 103(a) as unpatentable  
over Kenna and Buist*

The Appellant first contends that Kenna and Buist fail to describe limitation [1] of claim 1, specifically because Kenna fails to describe a data structure and associated links that are user-definable and Buist also fails to describe links (accounts) that are user-definable, as per claims 1-4 and 8-9 (App. Br. 13 and Reply Br. 2-3). We disagree with the Appellant.

Claim 1 requires a first data structure with at least two links that are user-definable. Kenna describes a data structure that contains both master account identification information and subaccount identification information (FF 02). The data processing system links a plurality of subaccounts identification information to the master account information (FF 02). As such, Kenna describes a data structure that represents the master account information and has a plurality of links to a plurality of subaccounts. A user can request to add additional subaccounts to the master account (FF 02).

1           As such, the number of subaccounts that can be linked to the master  
2     account is within the control of the user and as such is user-definable.  
3     Therefore, Kenna describes a data structure and associated links that are  
4     user-definable.

5           Additionally, the Examiner has not relied on Buist to describe this  
6     feature. As such, the Appellant's contention does not persuade us of error on  
7     the part of the Examiner because the Appellant responds to the rejection by  
8     attacking the references separately, even though the rejection is based on the  
9     combined teachings of the references. Nonobviousness cannot be  
10    established by attacking the references individually when the rejection is  
11    predicated upon a combination of prior art disclosures. *See In re Merck &*  
12    *Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

13          The Appellant further contends that there is no motivation to combine  
14    Kenna and Buist (App. Br. 14-15). We disagree with the Appellant.

15          Kenna is concerned with the management of data, specifically the  
16    management of account information (FF 01). Kenna accomplishes this by  
17    creating a data structure that consists of links between a master account and  
18    subaccounts, where subaccounts are controlled by the parameters that define  
19    the master account (FF 02).

20          Buist is also concerned with management of account information (FF  
21    03). Buist accomplishes this by displaying account information in a  
22    hierarchical manner to a user and by further displaying detailed information  
23    regarding the account to the user (FF 04).

24          A person with ordinary skill in the art would have recognized the  
25    benefit of facilitating the use and understanding of information by displaying  
26    master account information and subaccount information side by side. As

1 such, Kenna and Buist are concerned with the same problem and a person  
2 with ordinary skill in the art would have been lead to combine their  
3 teachings.

4 The Appellant also contends that Buist fails to describe a system  
5 having first and second data structures, where the second data structure has  
6 one or more associated links, with one of the links identifying the first data  
7 structure, as per claim 6 (App. Br. 15). We disagree with the Appellant.

8 Claim 6 requires a second data structure to link to the first data  
9 structure. Buist describes a user account, such as a stock portfolio (FF 04).  
10 Individual stocks are organized as subaccounts in the stock portfolio and  
11 parameters from the individual stocks are reflected in the overall portfolio  
12 parameters (FF 04). That is, the individual stocks (second data structures)  
13 are linked back to the portfolio to provide detailed information.

14 Furthermore, Kenna describes that account information stored by the  
15 database includes both master account identification information and  
16 subaccount identification information that is used to link the master and  
17 subaccounts together (FF 02). As such, Kenna also describes that the second  
18 data structure (subaccount) links to the first data structure (master account).

19 The Appellant further contends that the Examiner has failed to address  
20 claims 7, 12-15, 20, 21, 23-33, 35, 43, 46, and 47 and therefore has failed to  
21 establish a prima facie case of obviousness for these claims (App. Br. 15-  
22 26). We agree with the Appellant. Since the Examiner has failed to  
23 demonstrate that these claims were described or suggested by the prior art,  
24 the Examiner has failed to establish a prima facie case of obviousness.

25 The Appellant also contends that Buist fails to describe a combining  
26 means for combining related account items from more than one account

1 before the display means displays the account items, as per claims 10-11<sup>3</sup>  
2 and 50 (App. Br. 15-16 and 26-27). We disagree with the Appellant.  
3 Claims 10-11 require combining related account items prior to displaying  
4 the account items. Buist describes displaying aggregated information in  
5 summary of the displayed accounts and displaying aggregated information  
6 without displaying each account (FF 04). That is, Buist describes combining  
7 account items and displaying the aggregate information independent of  
8 whether the accounts are displayed. As such, Buist describes combining  
9 account items prior to displaying the accounts.

10 The Appellant also contends that Kenna and Buist fail to describe a  
11 system in which the user actually creates the data structure, as per claims 16-  
12 19 and 22 (App. Br. 17). We disagree with the Appellant. The limitation of  
13 creating a data structure and user-defining of a data structure are the same  
14 and we do not find this argument persuasive for the same reasons discussed  
15 *supra*.

16 The Appellant contends that the Examiner has failed to address the  
17 limitations of claims 34 and 36-41 (App. Br. 20-25). The Appellant also  
18 contends that the Examiner has generally cited Buist to describe these claims  
19 without providing any citation or rationale to support the underlying  
20 rejection (App. Br. 20-25). The Appellant further contends that Kenna and  
21 Buist fail to describe outputting a formatted output formatted to print onto  
22 printed labels as per claims 34 and 48-49. The Appellant even further  
23 contends that the Examiner has failed to provide a motivation or suggestion

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<sup>3</sup> The Appellant contends that the Examiner has failed to address claim 11 (App. Br. 16), however, the Examiner explained the rejection of claim 11

1 to combine Kenna and Buist and there is no motivation or suggestion to  
2 combine Kenna and Buist as per claim 34 (App. Br. 20-21). We agree with  
3 the Appellant. The Examiner has failed demonstrate that these claims were  
4 described or suggested by the prior art and provide any rationale for the  
5 rejections. As such the Examiner has failed to establish a prima facie case of  
6 obviousness.

7 The Appellant next contends that Kenna and Buist fail to describe a  
8 display means for displaying on a single screen or window, or multiple  
9 screens or windows simultaneously, selected investment objectives and  
10 selected document customer contacts for a selected account as per claims 42-  
11 47 (App. Br. 25-26). We agree with the Appellant. Buist describes  
12 displaying stock portfolio and account information (FF 04) but fails to  
13 describe displaying investment objectives and selected document customer  
14 contacts for a selected account. As such, Kenna and Buist fail to describe  
15 claims 42-47.

#### 16 17 CONCLUSIONS OF LAW

18 The Appellant has not sustained his burden of showing that the  
19 Examiner erred in rejecting claims 1-4, 6, 8-11, 16-19, 22, and 50 under  
20 35 U.S.C. § 103(a) as unpatentable over Kenna and Buist.

21 The Appellant has sustained his burden of showing that the Examiner  
22 erred in rejecting claims 7, 12-15, 20, 21, and 23-49 under  
23 35 U.S.C. § 103(a) as unpatentable over Kenna and Buist.

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and cited Kenna to describe claim 11 in the Non-Final Rejection dated  
November 20, 2002.

DECISION

To summarize, our decision is as follows:

- The rejection of claims 1-4, 6, 8-11, 16-19, 22, and 50 under 35 U.S.C. § 103(a) as unpatentable over Kenna and Buist is sustained.
- The rejection of claims 7, 12-15, 20, 21, and 23-49 under 35 U.S.C. § 103(a) as unpatentable over Kenna and Buist is not sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED-IN-PART

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